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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,651	05/02/2006	Josef Scharmuller	SCHARMULLER-3	4076
20151 7590 12/09/2008 HENRY M FEIEREISEN, LLC HENRY M FEIEREISEN 708 THIRD AVENUE SUITE 1501 NEW YORK, NY 10017				
EXAMINER				
STABLEY, MICHAEL R				
ART UNIT		PAPER NUMBER		
3611				
MAIL DATE		DELIVERY MODE		
12/09/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/595,651

**Applicant(s)**

SCHARMULLER, JOSEF

**Examiner**

Michael R. Stabley

**Art Unit**

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-26 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 14-26 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 02 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date 5/2/08, 7/28/08  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Inventor's Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pneumatic and/or hydraulic cylinders must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 15, 16, and 26 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The specification fails to specifically point out how the "center axis" is defined and therefore cannot be included in the claims. A hitch socket has many different "axes" and the specification fails to distinctly define how the "central" one is determined.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 23 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The recitation "pneumatic and/or hydraulic cylinder" is unclear since the invention does not disclose or show the actuator to have a pneumatic and hydraulic cylinder at the same time.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 14, 17-19, 24, and 25 rejected under 35 U.S.C. 102(b) as being anticipated by Hall (U.S. 6,588,790).

In re claim 14, Hall discloses a high-load drawbar eye, comprising a hitch flange (32) for attachment to a towed vehicle; a hitch socket (36) constructed to receive a matching hitch ball (24) and having an open rim, said hitch socket having a collar; a hitch arm (88) connecting the hitch socket to the hitch flange; and a hold-down device (48) cooperating with the hitch socket and including a semicircular fork of a configuration to match a shape of the collar as shown in Figure 4.

In re claim 17, Hall further discloses wherein, as viewed in operating position, the hold-down device is movably supported on a bottom side of the hitch arm as shown in Figure 4A.

In re claim 18, Hall further discloses wherein the collar has a recess, and the fork has a projection of a configuration complementing the recess as shown in Figure 2.

In re claim 19, Hall further discloses comprising an actuating apparatus for operating the hold-down device.

In re claim 24, Hall further discloses wherein the hitch socket is substantially hemispherical in shape, and the hold-down device is arranged in a region of the hitch socket having a greatest diameter as shown in Figure 3.

In re claim 25, Hall further discloses wherein the hitch ball has a diameter and includes a portion which is constructed for reception by the hitch socket and the hold-down device, said portion being greater in size than a hemisphere sized to correspond

to the diameter of the hitch ball, thereby realizing a substantially flat support area of the portion of the hitch ball by the hitch socket and the hold-down device.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 20-22 rejected under 35 U.S.C. 103(a) as being unpatentable over Hall in view of Kitterman (U.S. 2,326,466).

In re claims 20 and 22, Hall discloses the drawbar eye of claim 19, but does not disclose wherein the actuating apparatus includes a toggle joint or manual lever. Kitterman, however, does disclose a trailer coupler using both a toggle joint and manual lever (24) as shown in Figure 2 to actuate the hold down device. It would have been an obvious matter to one of skill in the art to modify the actuating apparatus of Hall such that it comprised the toggle joint and manual lever of Kitterman to further assist in actuating the hold down device.

In re claim 21, Hall and Kitterman combine to teach the drawbar eye of claim 19 wherein the actuating apparatus includes a lever except that it is centrally located. It would have been obvious to one having ordinary skill in the art at the time the invention was made to offset the lever to an eccentric position, since it has been held that

rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

9. Claim 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Hall.

In re claim 23, Hall discloses the drawbar eye of claim 19 wherein the actuating apparatus is a spring cylinder, but does not show a pneumatic and/or hydraulic cylinder. As spring, pneumatic and hydraulic cylinders are known functional equivalents, it would have been an obvious matter of design choice to use a pneumatic and/or hydraulic cylinder instead of a spring cylinder, and since applicant has not disclosed that a pneumatic and/or hydraulic cylinder solves any stated problem and it appears that Hall would perform equally well with any of the above cylinders.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael R. Stabley whose telephone number is (571)270-3249. The examiner can normally be reached on M-F 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Stabley/  
Examiner, Art Unit 3611

/Paul N. Dickson/  
Supervisory Patent Examiner, Art Unit 3600